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incorrectly named in caption as Georgia-Pacific
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8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 GERALD SUMNER and SARAH SUMNER,
11 his wife,

Case: 2:16-cv-00415-RFB-VCF

12 Plaintiffs,

13 vs.

**[PROPOSED] DISCOVERY PLAN
AND SCHEDULING ORDER**

14 BORGWARNER MORSE TEC, INC., a
successor-by-merger to Borg-Warner
15 Corporation; CBS CORPORATION, a
Delaware Corporation f/k/a Viacom, Inc.,
16 successor by merger to CBS Corp., a
Pennsylvania Corp., f/k/a Westinghouse Electric
17 Corp.; CERTAINTEED CORPORATION, a
Pennsylvania Corp., et al.,

18 Defendants.

20 Pursuant to Local Rules 16-1 and 26-1(b), Plaintiffs Gerald and Sarah Sumner, and
21 Defendants General Electric Company, Georgia Pacific Corporation, Electrolux Home
22 Products, Inc., Honeywell International, Inc., Metropolitan Life Insurance Company and
23 Whirlpool Corporation (“Defendants”) submit this Proposed Discovery Plan and Scheduling
24 Order.

25 1. Meeting. All remaining Parties met and conferred regarding this Joint Proposed
Discovery Plan and Scheduling Order on June 17, 2016, pursuant to Fed. R. Civ. 26(f).

26 2. Initial Disclosures: The Parties agree to make Fed. R. Civ. P. 26(a) initial
disclosures within the time allowed by the Rules. Initial disclosures will consist of relevant,

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1 non-privileged material in the Parties' possession pursuant to Fed. R. Civ. P. 26(a)(1).

2 3. Subjects on which discovery may be needed: Discovery will be limited to non-
3 privileged issues relevant to the parties' claims and defenses.

4 4. Discovery Plan

5 A. Discovery Cut-Off Date. The parties have extensively discussed the amount
6 of anticipated discovery needed in an asbestos exposure case and have agreed
7 that discovery shall be completed by December 15, 2016. This date takes
8 into account the discovery and disclosures that were accomplished while the
9 case was pending in state court, the specialized nature of the claims being
10 made and the extensive use of expert witnesses that will be needed to testify
11 on the subject.

12 B. Amending Pleadings and Adding Parties. All motions to amend the pleadings
13 or to add parties shall be filed no later than September 16, 2016, ninety (90)
14 days prior to the close of discovery.

15 C. Fed. R. Civ. P. 26(a)(2) Disclosures (Experts). Disclosure of expert witnesses
16 shall be staggered as follows: Plaintiff's expert disclosures shall be made no
17 later than September 16, 2016, sixty (90) days prior to the close of discovery.
18 Defendants' expert disclosures shall be made no later than October 1, 2016,
19 seventy-five (75) days prior to the close of discovery. Disclosure of rebuttal
20 experts shall be made no later than October 31, 2016, forty-five (45) days
21 prior to the close of discovery.

22 D. Interim Status Reports. The Parties will file the interim status report,
23 pursuant to LR 26-3, by no later than October 17, 2016, sixty (60) days prior
24 to the close of discovery.

25 E. Dispositive Motions. All dispositive motions shall be filed no later than
26 January 30, 2017, forty-five (45) days after the close of discovery.

27 F. Pretrial Order. The Parties shall file a joint pretrial order no later than March
28 1, 2017, thirty (30) days after the date set for filing dispositive motions. In

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the event additional dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the Court. The Parties anticipate that trial of this matter will require approximately three weeks in April or May 2017.

G. Fed. R. Civ. P. 26(a)(3) Disclosures. The disclosures required by Fed. R. Civ. P. 26(a)(3) shall be made in the joint pretrial order.

8 5. Extension of Discovery Deadlines. Requests to extend the discovery deadlines set
9 forth in this Joint Discovery Plan and Scheduling Order should be filed with the Court by no
10 later than twenty-one (21) days before the subject deadline.

11 6. Preservation of Discoverable Evidence. The Parties hereby agrees to preserve for
12 purposes of this litigation any and all relevant evidence, including documents and other
13 tangible things. Failure to so preserve shall be grounds for a spoliation instruction at trial.

14 7. Format of Discovery. Production format for all electronically stored information
15 (ESI) shall be in portable document files (PDF), unless converting a document to PDF is
16 impossible or otherwise impracticable. Defendant reserves the right to request that ESI be
17 produced in its native format. Discoverable information shall be submitted either via U.S.
18 Mail on CD-ROM, DVD-ROM, or another universally accessible media storage device, or
19 via electronic mail, so as to minimize the burden and costs associated with excessive paper
20 discovery.

21 8. Inadvertent Disclosure. The inadvertent disclosure of any document or other
22 discoverable item does not thereby waive any privileges retained therein, provided that the
23 inadvertently disclosing party notifies the other parties in writing within a reasonable time
24 after receiving notice of inadvertent disclosure.

25 || 9. Required Certifications:

26 A. Pursuant to District of Nevada Local Rule 26-1(b)(7), the parties certify that
27 they have conferred about the possibility of using alternative dispute-
28 resolution processes including mediation, arbitration, and if applicable, early

1 neutral evaluation.

2 B. Pursuant to District of Nevada Local Rule 26-1(b)(8), the parties certify that
3 they considered consent to trial by a magistrate judge under 28 U.S.C. §
4 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General
5 Order 2013-01).

6 C. Pursuant to District of Nevada Local Rule 26-1(b)(9), the parties certify that
7 they have discussed whether they intend to present evidence in electronic
8 format to jurors for purpose of jury deliberations. The parties reserve the
9 right to present evidence in electronic format to jurors for purpose of jury
10 deliberations and agree that any electronic evidence disclosed during
11 discovery shall be disclosed in an electronic format compatible with the
12 court's electronic jury evidence display system.

13 **So Stipulated:**

14 Dated this 1st day of July, 2016.

15 Cliff W. Marcek, P.C.

16 /s/ Cliff W. Marcek
17 Cliff W. Marcek
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20 Jordan Roberts
21 Shrader & Associates, L.L.P.

22 *Attorneys for Plaintiffs*

23 Dated this 1st day of July, 2016.

24 Georgeson Angaran, Chtd.

25 /s/ Ryan J. Mandell
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29 *Attorneys for Honeywell
International Inc.*

30 Dated this 1st day of July, 2016.

31 LEWIS ROCA ROTHGERBER CHRISTIE LLP

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37 *Attorneys for Defendants General Electric
Company and Georgia Pacific Corporation*

38 Dated this 1st day of July, 2016.

39 Alverson, Taylor, Mortensen & Sanders

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44 *Attorneys for Electrolux Home Products, Inc.*

1 Dated this 1st day of July, 2016.

2 Reisman·Sorokac

3 /s/ Joshua H. Reisman
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6 *Attorneys for Metropolitan Life
7 Insurance Company*

Dated this 1st day of July, 2016.

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Attorneys for Whirlpool Corporation

13 **ORDER**

14 IT IS SO ORDERED.

16

17 UNITED STATES DISTRICT JUDGE

18 Date: _____

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CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2016, I caused a true and accurate copy of the foregoing document entitled [PROPOSED] DISCOVERY PLAN AND SCHEDULING ORDER to be filed with the Clerk of the Court via the CM/ECF system, which will send an electronic copy to the following:

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